

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ADRIENNE WHEELER,

Plaintiff,

-against-

**STIPULATION AND ORDER
OF SETTLEMENT AND
DISMISSAL**

THE CITY OF NEW YORK, a municipal entity, NEW
YORK CITY POICE OFFICER ASSISTANT CHIEF
BRUCE SMOLKA, individually and in his official
capacity, NEW YORK CITY POLICE OFFICER
LIEUTENANT JOSEPH CANECO, individually and in his
official capacity,

07-CV-3999 (LBS)

Defendants.
----- X

WHEREAS, plaintiff Adrienne Wheeler commenced this action by filing a complaint on or about May 22, 2007, alleging that defendants violated her constitutional and common law rights; and

WHEREAS, defendants have denied any and all liability arising out of plaintiff's allegations; and

WHEREAS, the parties now desire to resolve the remaining issues raised in this litigation, without further proceedings and without admitting any fault or liability;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. The above-referenced action is hereby dismissed with prejudice, and without costs, expenses, or fees except as provided for in paragraph "2" below.

2. The City of New York hereby agrees to pay plaintiff the sum of THIRTY-SEVEN THOUSAND AND NO/00 (\$37,000) Dollars. In consideration for the payment of this sum,

plaintiff agrees to the dismissal of all claims against defendants City of New York, Bruce Smolka and Joseph Caneco, with prejudice, and to release the defendants and any present or former employees or agents of the City of New York, or any agency thereof, from any and all liability, claims, or rights of action arising from and contained in the complaint in this action, including claims for costs, expenses and attorney fees.

3. Plaintiff shall execute and deliver to defendants' attorneys all documents necessary to effect this settlement, including, without limitation, a General Release and Affidavit Concerning/No Liens, in the form annexed hereto, based on the terms of paragraph 2 above.

5. Nothing contained herein shall be deemed to be an admission by any of the defendants that they have in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

6. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York or any agency thereof.

7. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York
May 29, 2008

BELDOCK, LEVINE & HOFFMAN,
LLP
Attorneys for Plaintiff
99 Park Avenue, Suite 1600
New York, New York 10016

By: 

Jonathan C. Moore (JM 6902)

MICHAEL A. CARDOZO
Corporation Counsel of the City of New York
Attorney for Defendants
100 Church Street
Room 3-180
New York, New York 10007
(212) 788-1599

By: 

Arthur G. Larkin (AL 9059)
Assistant Corporation Counsel

SO ORDERED:

Hon. Leonard B. Sand, U.S.D.J.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x
ADRIENNE WHEELER,

AFFIDAVIT OF NO LIENS

Plaintiff,

-against-

07-CV-3999 (LBS)

THE CITY OF NEW YORK, et al.,

Defendants.
----- x

STATE OF NEW YORK)
 : SS.:
COUNTY OF NEW YORK)

ADRIENNE WHEELER, being duly sworn, deposes and says:

1. I am over 18 years of age, I am the plaintiff herein and make this affidavit in connection with settlement of this action.

2. There are no outstanding bills or liens against me or my property for obligations owed for treatment received at a New York City Health and Hospitals Corporation facility, nor for the receipt of Workers' Compensation or New York State Disability benefits, as a result of incidents underlying in this action.

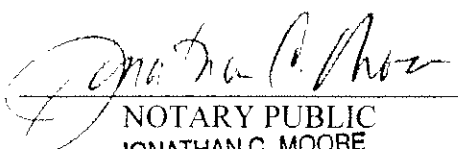
3. I have never been a recipient of public assistance from the New York City Department of Social Services. There are no outstanding tax obligations and/or judgments owed by me to the City of New York.

4. My date of birth is **REDACTED** . My social security number is **REDACTED**



ADRIENNE WHEELER

Sworn to before me this 29th
day of May, 2008.



NOTARY PUBLIC
JONATHAN C. MOORE
Notary Public, State of New York
No. 02MO6047335
Qualified in New York County
Commission Expires August 28, 2010

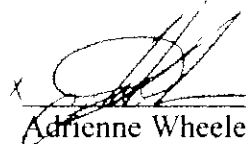
GENERAL RELEASE

Know that I, Adrienne Wheeler, plaintiff in the action entitled Adrienne Wheeler v. City of New York, et al., 07-CV-3999 (LBS), in consideration of the payment to me of the sum of Thirty-seven Thousand and No/00 (\$37,000.00) Dollars by the City of New York, do hereby release and discharge defendants; their successors or assigns; and all past and present officials, employees, representatives and agents of the City of New York, or any agency thereof, from any and all claims which were or could have been alleged by me in the aforementioned action arising out of the events alleged in the complaint in said action, including all claims for costs, expenses and attorney's fees.

This Release may not be changed orally.

THE UNDERSIGNED HAS READ THE FOREGOING RELEASE AND FULLY UNDERSTANDS IT.

IN WITNESS WHEREOF, I have executed this Release this 29 day of May, 2008.

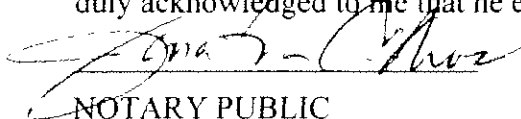


Adrienne Wheeler

STATE OF NEW YORK

COUNTY OF New York SS.:

On May 29, 2008, before me personally came Adrienne Wheeler, to me known, and known to me to be the individual described in, and who executed the foregoing RELEASE, and duly acknowledged to me that he executed the same.



NOTARY PUBLIC

JONATHAN C. MOORE
Notary Public, State of New York
No. 02MO6047335
Qualified in New York County
Commission Expires August 28, 2010